

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE,

Plaintiff,

v.

KATHLEEN ALLISON, in her
official capacity as Secretary
of the California Department of
Corrections and Rehabilitation,

Defendant.

NO. 2:20-cv-02482-WBS-AC

ORDER CONSOLIDATING
CASES

COUNTY OF AMADOR, a public
agency of the State of
California,

Plaintiff,

v.

KATHLEEN ALLISON in her
official capacity as Secretary
of the California Department of
Corrections and Rehabilitation;
PATRICK COVELLO in his official
capacity of Warden of
California Department of

NO. 2:21-cv-00038-WBS-AC

1 Corrections and Rehabilitation
2 Mule Creek State Prison; and
3 CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION,

4 Defendants.
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12 The court entered a pretrial scheduling order in Case
13 No. 2:20-cv-02482 ("CSPA Action"), which was the first-filed case
14 on April 2, 2021. (CSPA Action Docket No. 11.) After holding a
15 scheduling conference in the Amador Action (2:21-cv-00038), on
16 May 24, 2021, the court directed the parties in both Actions to
17 submit a Joint Status Report regarding consolidation. The
18 parties submitted their Joint Status Report on June 7, 2021, and
19 the court held a further hearing on June 14, 2021. (CSPA Action
20 Docket Nos. Nos. 15, 17; Amador Action Docket Nos. 17-18.)

21 Pursuant to Federal Rule of Civil Procedure 42(a),
22 "[i]f actions before the court involve a common question of law
23 or fact, the court may . . . consolidate the actions"
24 Fed. R. Civ. P. 42(a). Once a court finds that the actions
25 "involve a common question of law or fact," Rule 42(a) vests the
26 court with broad discretion to determine whether to consolidate
27 the cases. Investors Research Co. v. U.S. Dist. Ct. for Cent.
28 Dist. Cal., 877 F.2d 777, 777 (9th Cir. 1989); see also Modesto

1 Irrigation Dist. v. Gutierrez, Nos. 06-00453, 06-00308, 2007 WL
2 915228, at *4 (E.D. Cal. Mar. 26, 2007) (reiterating the two
3 steps of a Rule 42(a) inquiry). In exercising its discretion,
4 the court must balance "the interest of judicial convenience
5 against the potential for delay, confusion and prejudice caused
6 by consolidation." Paxonet Commc'ns, Inc. v. Transwitch Corp.,
7 303 F. Supp. 2d 1027, 1029 (N.D. Cal. 2003) (citation omitted).

8 All parties agree that these actions clearly involve
9 common questions of law and fact. See Fed. R. Civ. P. 42(a).
10 Both CSPA and Amador County have the same claims that defendants
11 violated the Clean Water Act by discharging pollutants into
12 waters of the United States without a permit and in violation of
13 their municipal separate storm sewer system general permit, and
14 even the claims unique to the Amador Action will likely involve
15 many of the same issues of fact and law as the claims common to
16 the two Actions.

17 Defendants argue that the most efficient way to deal
18 with the potential overlap between the Actions would be for the
19 court to dismiss the CSPA Action or, in the alternative, to stay
20 it in its entirety while the Amador Action proceeds. (Amador
21 Action Docket No. 7 at 7-8.) Although defendants argue that the
22 court has the power to dismiss or stay the CSPA action by virtue
23 of its inherent power to control its own docket, defendants cite
24 no authority for the proposition that the court's power to
25 control its docket extends to dismissing a plaintiff's case in
26 its entirety simply because it is factually and legally similar
27 (or even identical) to other pending cases before the court.

28 Defendants also have not persuaded the court that it

1 would make any sense to stay the CSPA Action pending resolution
2 of the Amador Action. Counsel for defendants was unable to
3 explain what effect a verdict in favor of the defendants in the
4 Amador Action would have on the CSPA Action if the court were to
5 stay the CSPA Action pending resolution of the Amador Action.
6 Presumably, such a determination would have no res judicata or
7 collateral effect on CSPA, and its action against defendants
8 would have to be tried, resulting in multiple trials and the
9 potential for inconsistent verdicts. The court will therefore
10 not dismiss or stay the CSPA Action in its entirety as suggested
11 by defendants.

12 The court instead finds that the interest of judicial
13 convenience favors consolidation of the actions for all purposes.
14 Liability issues in the two actions are likely to be similar and,
15 for two of the claims, identical. Consolidation of discovery and
16 motion practice will minimize duplication of effort on the part
17 of the parties, their attorneys, witnesses, and the court.
18 Consolidation of trial will also reduce the chances that the
19 court awards inconsistent remedies, including injunctive relief.
20 See Noel v. City of Oroville, No. 07-00728 WBS KJM, 2008 WL
21 449728, at *2 (E.D. Cal. Feb. 15, 2008); Burnett v. Rowzee, Nos.
22 07-641, 07-393, 07-591, 2007 WL 4191991, at *2 (C.D.Cal. Nov. 26,
23 2007) (considering the “potential burden on the parties[][and]
24 witnesses” that consolidating cases will cause) (citation
25 omitted).

26 Lastly, because ample time still remains to complete
27 discovery and meet other deadlines in this matter, the court
28 finds the applicable dates and deadlines contained in the


1 pretrial scheduling order entered in the CSPA Action (CSPA Action
2 Docket No. 11) to be appropriate and that those dates and
3 deadlines will apply to the consolidated action without any need
4 for amendment. See Noel, 2008 WL 449728, at *2.

5 IT IS THEREFORE ORDERED that defendants' motion to
6 consolidate civil case Nos. 2:20-cv-2482 and 2:21-cv-38 be, and
7 the same hereby is, GRANTED;

8 IT IS FURTHER ORDERED that (1) No. 2:20-cv-2482 is
9 designated as the "master file"; (2) the Clerk of the court is
10 directed to copy the complaint and answer in No. 2:21-cv-38 and
11 to place said copies in the "master file"; (3) the Clerk of the
12 court is directed to administratively close No. 2:21-cv-38; and
13 (4) the parties are directed to file all future pleadings and
14 motions only in No. 2:20-cv-2482;

15 IT IS FURTHER ORDERED that the dates and deadlines
16 contained in the CSPA Action's pretrial scheduling order (CSPA
17 Action Docket No. 11) shall apply to the consolidated action
18 going forward.

19 Dated: June 15, 2021


WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE